

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 11-20551-52

D-52 JOSH BARNES,

Defendant.

**OPINION AND ORDER GRANTING GOVERNMENT'S MOTION FOR FINDING OF
EXCUSABLE NEGLIGENCE AND EXTENDING TIME**

Before the court is the government's Amended Combined Motion for a Finding of Excusable Neglect and Motion for Extension of Time filed January 12, 2017. (Dkt. # 1591.) In its motion, the government asks the court to extend the time for it to file its response to Petitioner's Motion to Vacate Sentence under 28 U.S.C. § 2255. Though the government's response was due nearly two months prior, on November 15, 2016, the court finds that the government's failure to file its motion on time was due to excusable neglect, and will grant the motion under Federal Rule of Civil Procedure 6(b)(1)(B).

The court expects deadlines to be honored, of course, but the court recognizes government counsel's prior timely filings and the extraordinary scope and breadth of this indictment. The relatively small difference between the 72-month sentence actually imposed in April, 2015, and the more favorable, but still hypothetical, sentence of 60 months now estimated by the government assuming the petition were deemed timely

and properly granted, shows that a delay of even longer than several months in the government's response would impose no prejudice on Petitioner. Accordingly,

IT IS ORDERED that the government's Motion for Finding of Excusable Neglect (Dkt. # 1591) is GRANTED. The government is DIRECTED to file its response by **February 10, 2017**.

The deadline for Petitioner to file his reply is EXTENDED. Petitioner's reply is due by **March 10, 2017**.

s/Robert H. Cleland /
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: February 1, 2017

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, February 1, 2017, by electronic and/or ordinary mail.

s/Shawna C. Burns /
Case Manager Generalist
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